TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

CORRECTED FISCAL MEMORANDUM

SB 1931 – HB 1517

May 27, 2009

SUMMARY OF AMENDMENT (009045): Deletes all language following the caption. Effective January 1, 2010, requires any refiner, supplier, or permissive supplier in the state to make gasoline or gasoline blending stock available to wholesalers in a state suitable for blending with ethanol. Makes void any term or provision under any contract between a wholesaler and a refiner, supplier, or permissive supplier if the contract is executed on or after the effective date of this bill. Upon complaint by a wholesaler, authorizes the Department of Agriculture to assess a fine of up to $5,000 per occurrence per day on a refinery, supplier, or permissive supplier for willful violations as determined by an investigation by the Department and subsequent hearing. Requires that any fines paid to the state be used to pay costs of investigation, hearing, and related administrative costs. Any remaining funds will be used by the Department to fund grants for the promotion of biofuel research, technology, or agriculture development.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue – Exceeds $100,000
Increase State Expenditures – Not Significant

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

On May 26, 2009, we issued a fiscal memorandum reflecting an *increase in state revenue of $30,000 one-time, an increase of $15,000 in FY10-11 and subsequent years, and an increase in state expenditures of $14,300 one-time from the General Fund and $15,700 from the Biofuel Grant Program.* Further, an *increase in state expenditures of $7,100 from the General fund in FY10-11 and subsequent years, and an increase in expenditures of $7,900 from the Biofuel Grant Program* was indicated. After further review and analysis, the fiscal impact of this memorandum is as follows:

(CORRECTED)
Increase State Revenue – Exceeds $130,000/One-Time/General Fund
Exceeds $115,000/FY10-11 and Subsequent Years/General Fund

Increase State Expenditures - $14,300/One-Time/General Fund
$15,700/One-Time/Biofuel Grant Program
$7,100/FY10-11 and Subsequent Years/General Fund
$7,900/FY10-11 and Subsequent Years/Biofuel Grant Program

Assumptions applied to amendment:

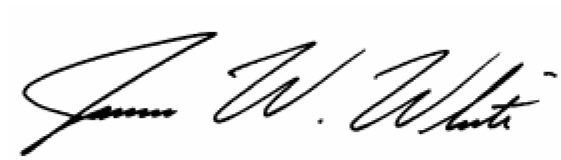
- According to the Department of Agriculture, there will be an increase in state revenue of an estimated $30,000 in FY09-10 for the collection of fines from refineries, suppliers, or permissive suppliers ($2,500 average fine x 3-day violation x 4 cases). The Department further estimates this amount will decrease by 50 percent in FY10-11 and subsequent years to $15,000 ($2,500 average fine x 3-day violation x 2 cases).
- According to the Department, the increase in state expenditures for the administration of the complaint and investigation program in FY09-10 is estimated to equal $14,300. These expenditures include six complaint investigations (6 x $823 investigation costs = $4,938). Four of the six complaints will result in the need for a hearing (4 x $2,337 hearing costs = $9,348). The Department further estimates that in FY10-11 and subsequent years the number of complaints will decrease by 50 percent to three per year with two cases requiring a hearing. The estimated increase in state expenditures for FY10-11 and subsequent years equals $7,100 [(3 complaints x $823 per investigation = $2,469) + (2 violators x $2,337 hearing costs = $4,674)].
- In FY09-10, the remaining $15,700 will be used by the Department to fund grant initiatives for the promotion of biofuel research, technology, or agriculture development, biofuel production facilities, or retail infrastructure and installation for biofuel distribution. In FY10-11 and subsequent years, the remaining $7,900 will be used to fund the biofuel grant initiatives program.
- According to the Department of Revenue (DOR), in 2008 some major oil company suppliers began to refuse Tennessee businesses the right to blend ethanol, and would sell them only pre-blended ethanol. DOR indicates that this act effectively shifted income and/or profits away from certain Tennessee petroleum wholesalers and to out-of-state suppliers.
- DOR indicates that this bill would require major suppliers to provide unblended gasoline and diesel fuel at the terminal of Tennessee petroleum wholesalers, where such fuels would then be blended in Tennessee. According to DOR, it is likely that the taxable incomes of

Tennessee petroleum wholesalers would increase as a result; thus allowing for increased collections of franchise and excise tax.

- Any such increase to state revenue derived from additional franchise and excise tax is dependent upon several unknown factors such as the number of Tennessee entities that will blend fuel as a result of this bill, the taxable incomes of such entities under current law, and the taxable incomes of such entities under the provisions of this bill.
- Given the extent of unknown factors, any such increase to state revenue is difficult to determine. However, the increase to recurring state revenue is reasonably estimated to exceed $100,000 per year.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

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